

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (ministry) reconsideration decision dated January 8, 2018 which held that the appellant was not eligible for a crisis supplement for shelter for the month of December 2017 pursuant to Section 59 of the Employment and Assistance Regulation (EAR). The ministry determined that the appellant did not meet the criteria for Section 59 (1) of the EAR. In particular, the ministry found that:

- the appellant's October 2017 income exceeded her income assistance (IA) amount and therefore she did not qualify for IA or a crisis supplement for the month of December 2017;
- the appellant's shelter costs were not an unexpected expense or an item unexpectedly needed; and
- the appellant did have resources available to her to pay for her shelter costs on her own;
- the appellant was not a recipient of IA or hardship assistance (HA) for the month of December 2017.

PART D – RELEVANT LEGISLATION

Employment and Assistance Regulation - EAR- Section 59 (1)

PART E – SUMMARY OF FACTS

The evidence before the ministry at the time of reconsideration consists of:

1. 1-page copy of the ministry's original decision regarding a crisis supplement in which the appellant has made hand-written notes stating that she is living without pay and that in November she received \$500 from Employment Insurance (EI) and needs \$900 to pay her rent for December.
2. Request for Reconsideration, signed and dated December 21, 2017, which in part stated that "There is nowhere I can get the money to pay the rent" and that if she had the money in her account she would not have asked the ministry for money.
3. 1-page hand written from the appellant, signed and dated December 20, 2018, which, in part stated the following:
 - She did not receive \$306 per week or \$1224 for the month of December [2017] from EI;
 - She is looking for rent money for December [2017];
 - She only received \$500 from EI in November [2017] which is not enough for rent;
 - Her landlord will not accept a lesser amount for rent.
4. A note indicated that utilities are included in her \$1400 rent.
5. Letter from Service Canada addressed to the appellant stating that she received 15-week EI sickness benefits. The 15-week period was from July 23, 2017 – November 4, 2017.
6. 1-page 'Customer Snapshot' from the appellant's bank dated December 20, 2017.
7. Shelter information, signed and dated August 13, 2017, which indicated that the appellant's rent will be \$1250 per month.
8. 10 Day Notice to End Tenancy for unpaid Rent or Utilities, signed and dated December 5, 2017.
9. 1-page note from the appellant's landlord, signed but not dated, which stated in part, that the appellant started her tenancy August 1, 2017 and has "always been behind [with the] rent. She owns \$900 for November's rent and \$50 late fee. "If she can't pay [the landlord] rent on time, I have no choice [but] to tell her 'evict the place'".
10. 3-page bank account summary which shows the following deposits from EI: October 3, 2017= \$1692, October 13, 2017 = \$516, October 24, 2017 = \$516 and November 7, 2017 = \$516.

Evidence On Appeal

1. Notice of Appeal (NOA), signed and dated January 22, 2018, which stated "I just suffering a lot because depression makes me sick and distraught and I take care for children a lot".
2. A note from a physician, signed and dated January 22, 2018, which in part stated that the appellant suffers from generalized arthralgia, pain in various parts of the body, sleep disorder, depression and gastritis, and that she is not currently employable.
3. 1-page list of the appellant's medications which was signed by the physician and dated January 22, 2018.
4. Photocopy of the front of the Canada Post – Xpresspost envelope that was sent to the reconsideration branch.

Evidence At the Hearing

Through her interpreter, the appellant stated the following:

- In October 2017 she received \$1130 from the ministry which included rent. She paid \$1450 for rent in October.
- The ministry stated that another \$900 was also received but it was not.
- From September to November 2017 she received \$300 per week from EI.

- EI was cut off November 4, 2017 and then she appealed to the ministry for money to pay rent for November 2017.
- In January 2018 she received \$606 from the ministry which is not enough for rent and food.
- She qualified for Persons with Disabilities (PWD) and since then things are better but she still needs rent money for November and December.
- The \$2700 that she received from EI in October is not enough to sustain her and her children for November and December 2017 and part of January 2018.

The ministry relied on its reconsideration decision.

Admissibility of Additional Evidence

On review of the evidence submitted on appeal, the panel finds that the physician's reference to generalized arthralgia, pain in various parts of the body, sleep disturbances, depression, gastritis and employability was "new evidence" as this information was not before the ministry at reconsideration. The panel therefore finds that, pursuant to section 22(4)(b) of the *Employment and Assistance Act*, any reference to generalized arthralgia, pain in various parts of the body, sleep disturbances, depression, gastritis and employability is not admissible as it is not in support of the information and records that were before the minister when the decision that is being appealed was made.

On review of the evidence submitted on appeal, the panel finds that the appellant's reference in the NOA to depression and being sick was "new evidence" as this information was not before the ministry at reconsideration. The panel therefore finds that, pursuant to section 22(4)(b) of the *Employment and Assistance Act*, any reference to depression and being sick is not admissible as it is not in support of the information and records that were before the minister when the decision that is being appealed was made.

PART F – REASONS FOR PANEL DECISION

The issue at appeal is whether the ministry's decision which found that the appellant is ineligible for a crisis supplement for shelter because she was ineligible for IA or HA for the month of December 2017, the need for rent was not a unexpected expense, that the expense could not have been met by other resources and the appellant was not a recipient of IA or HA for the month of December 2017 as required by Section 59 of the EAR, was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the appellant.

Section 59 of the EAR sets out the eligibility requirements for providing crisis supplement, as follows:

Crisis supplement

- 59** (1) The minister may provide a crisis supplement to or for a family unit that is eligible for income assistance or hardship assistance if
- (a) the family unit or a person in the family unit requires the supplement to meet an unexpected expense or obtain an item unexpectedly needed and is unable to meet the expense or obtain the item because there are no resources available to the family unit, and
 - (b) the minister considers that failure to meet the expense or obtain the item will result in
 - (i) imminent danger to the physical health of any person in the family unit, or
 - (ii) removal of a child under the *Child, Family and Community Service Act*.
- (2) A crisis supplement may be provided only for the calendar month in which the application or request for the supplement is made.
- (3) A crisis supplement may not be provided for the purpose of obtaining
- (a) a supplement described in Schedule C, or
 - (b) any other health care goods or services.
- (4) A crisis supplement provided for food, shelter or clothing is subject to the following limitations:
- (a) if for food, the maximum amount that may be provided in a calendar month is \$20 for each person in the family unit,
 - (b) if for shelter, the maximum amount that may be provided in a calendar month is the smaller of
 - (i) the family unit's actual shelter cost, and
 - (ii) the maximum set out in section 4 of Schedule A or Table 2 of Schedule D, as applicable, for a family unit that matches the family unit, and
 - (c) if for clothing, the amount that may be provided must not exceed the smaller of
 - (i) \$100 for each person in the family unit in the 12 calendar month period preceding the date of application for the crisis supplement, and
 - (ii) \$400 for the family unit in the 12 calendar month period preceding the date of application for the crisis supplement.
- (5) The cumulative amount of crisis supplements that may be provided to or for a family unit in a year must not exceed the amount calculated under subsection (6).
- (6) In the calendar month in which the application or request for the supplement is made, the amount under subsection (5) is calculated by multiplying by 2 the maximum amount of income assistance or hardship assistance that may be provided for the month under Schedule A or Schedule D to a family unit that matches the family unit.
- (7) Despite subsection (4) (b) or (5) or both, a crisis supplement may be provided to or for a family unit for the following:

- (a) fuel for heating;
- (b) fuel for cooking meals;
- (c) water;
- (d) hydro.

The Appellant's Position

The appellant's position is that she only received \$500 from EI in November 2017 and nothing from EI in December 2017 so she needs shelter costs from the ministry to pay her rent which is \$1450.

The Ministry's Position

The ministry's position is that because the appellant does not qualify for IA for the month of December 2017 because she received excess income in October 2017 from EI benefits. Furthermore, the ministry stated that is not satisfied that the appellant's need for rent was unexpected or that financial resources were not available to meet the need for rent in December 2017.

The Panel's Decision

Section 59 of the EAR states that the minister may provide a crisis supplement to or for a family unit that is *eligible* for IA or HA if the family unit or person in the family unit requires the supplement to meet an unexpected expense or obtain an item unexpectedly needed and is unable to meet the expense or obtain the item because there are no resources available to the family unit.

Eligibility

At the hearing the ministry stated that October's income is declared in November and that income impacts the eligibility for IA for the month of December. In its reconsideration decision, the ministry stated that the appellant does not qualify for IA or HA for the month of December 2017 because her income of \$2724 in October 2017, as received from EI benefits, exceeded her monthly IA amount.

The appellant does not dispute that she received a payments from EI of \$1692 on October 3, 2017, and \$516 each on October 13, 2017 and October 24, 2017 as indicated on her bank statement.

The panel finds that pursuant to section 59 of the EAR, the ministry reasonably determined that the appellant is not eligible for IA or HA for the month of December 2017 and therefore not eligible for a crisis supplement for rent because her October 2017 income of \$2724 exceeded her monthly IA amount.

Unexpected Expense or Need

The ministry argued that the need for rent is not an unexpected need. The appellant argued that \$2724 cannot sustain her and her children for the months of November 2017, December 2017 and part of January 2018.

The legislation is clear that a supplement issued by the ministry is for unexpected expenses or needs. The payment of rent is an on-going expense for which one must continually be prepared for. The panel finds that, pursuant to section 59 of the EAR, the ministry reasonably determined that the appellant is not eligible for a crisis supplement for the month of December 2017 because the expense of rent is not unexpected.

Availability of Resources

At the hearing the ministry stated that the ministry is the last resort of payment and that individuals are on IA must first look to other sources to meet their needs. In the reconsideration decision, the ministry argued that it is not satisfied that financial resources were not available to the appellant to meet her need for rent. The appellant argued that \$2724 could not sustain her and her children for the months of November 2017, December 2017 and part of January 2018 including paying rent for \$1450 per month.

The panel notes that the appellant did not provide any evidence to support that her need for rent could not be met with the resources available to her or that she could not meet her need for rent through family, friends or community resources.

The panel finds that pursuant to section 59 of the EAR, the ministry reasonably determined that the appellant has not established that other resources were not available to meet her need for rent for the month of December 2017.

Conclusion

The panel finds that the evidence establishes that the ministry was reasonable in its determination that the criteria set out in Section 59 of the EAR has not been met by the appellant. As a result the panel finds that the ministry's decision to deny the appellant's request for a crisis supplement for rent for the month of December 2017 was a reasonable application of the legislation and was reasonably supported by the evidence. The panel confirms the ministry's reconsideration decision. The appellant is not successful at appeal.